

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MARCH 20, 2012 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Upgrade Village Network Infrastructure	✓ Resolution Ordinance Motion Discussion Only	Liangfu Wu Director of Information Services

SYNOPSIS

A resolution has been prepared approving a service agreement with Comcast Business Communications, LLC f/k/a Comcast Commercial Services, LLC for a fiber-optic network connection between the Village Hall and the Public Works Facility, and a fiber-optic network connection between the Village and the Internet, for an amount not to exceed \$3,295 monthly (\$39,540 per year) for a three-year term.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 include *Exceptional Municipal Services*.

FISCAL IMPACT

The FY12 budget includes \$36,000 in the General Fund for the connection to the internet and \$66,000 in the Municipal Buildings Fund for the network upgrade between Village Hall and Public Works.

UPDATE & RECOMMENDATION
This item was discussed at the March 13 Village Council meeting. Staff recommends approval on the March 20 Consent Agenda.

BACKGROUND

The Village currently uses Comcast to maintain its network connection between the Village Hall and Public Works and for its connection to the internet. The current speed for the network connection between Village Hall and the Public Works building is 50 megabits per second (mbps), which is too slow to effectively support applications such as GIS. Additionally, the Village’s connection to the internet is 15 megabits per second. Improving the connection speed requires an upgrade to the network connection. Staff recommends a 1,000 mbps speed between Public Works and Village Hall and a 100 mbps for the Village’s connection to the internet, for both download and upload speed. These specifications will allow the Village to more successfully implement the shift to cloud-based services, including the migration to Google Apps for Government.

Staff issued an RFP for the upgrade in October 2011. Four companies submitted proposals. Of the four companies, only Comcast provided a proposal that met the speed requirements for both the Village Hall and the connection to the Public Works building. Comcast proposed a competitive price. The total cost is \$39,540 for the first year with a three cost of \$118,620. The Village is currently paying \$33,600 annually to Comcast for the existing connections. Staff presented this project at the December 14, 2011 Technology Commission meeting and received a positive recommendation from the Commission.

Staff recommends awarding this project to Comcast Business Communications, LLC f/k/a Comcast Commercial Services, LLC. The Village has experienced no technical issues with Comcast for their fiber network services.

ATTACHMENTS
Agreement

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF AN
AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE
AND COMCAST BUSINESS COMMUNICATIONS, LLC**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the “Agreement”), between the Village of Downers Grove (the “Customer”) and Comcast Business Communications, LLC (the “Company” or “Comcast”), for network services, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

Comcast Business Communications, LLC Network Services Agreement

This Agreement ("Agreement") is made on the 11th day of January, 2012 ("Effective Date") by and between Comcast Business Communications, LLC ("Company" or "Comcast"), a Delaware limited liability company, with offices located at One Comcast Center, Philadelphia, PA 19103 and Village of Downers Grove ("Customer"), with offices located at 801 Burlington Downers Grove, IL 60515. Herein, the above shall be collectively referred to as the "Parties" and individually as "Party"

Description of Services to be provided by Company to Customer:

1000 Mbps Ethernet Private Line ("EPL") Services at the site(s) set forth in Schedules A and B attached hereto. 100 Mbps Ethernet Dedicated Internet ("EDI") Services at the site set forth in Schedules A and B attached hereto.	
Term of Agreement (months): Thirty-Six (36)	Agreement Number: IL-12031-011112-01
Non-Recurring Charges ("NRC"): \$00.00	Monthly Recurring Charges ("MRC"): \$3,295.00
Any Additional Charges/Explanation:	
Number of Sites: Two (2)	Estimated Service Date: Ninety (90) to one-hundred twenty (120) days after mutual execution of Agreement.
Notes / Comments: Modifications made to the terms and conditions of the Agreement are set forth in the First Amendment attached hereto.	
Sales Person: Maria Azada	Telephone Number: (773) 447-8487
General Manager: Jeff Cobb	Telephone Number: (773) 394-8684
Customer Contact: Bill Herman	Telephone Number: (630) 434-5567

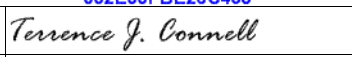
This Network Services Agreement sets forth the terms and conditions under which Comcast Business Communications, LLC and its operating affiliates ("Comcast") will provide the Services identified above to Customer. This Comcast Network Services Agreement consists of this document ("Cover Page"), the standard Comcast Business Communications, LLC General Terms and Conditions ("General Terms and Conditions"), and Schedules A and B ("Schedules"), and any jointly executed amendments ("Amendments"), collectively referred to as the "Agreement". In the event of any inconsistency among these documents, precedence will be as follows: (1) Amendments, (2) General Terms and Conditions, (3) this Cover Page, and (4) Schedules. This Agreement shall commence and become a legally binding agreement upon Customer's execution of this Cover Page. The Agreement shall terminate as set forth in the General Terms and Conditions. All capitalized terms not defined on this Cover Page shall have the definitions given to them in the General Terms and Conditions.

All modifications to the Agreement, if any, must be captured in a written Amendment, executed by an authorized Comcast Vice President and the Customer. All other attempts to modify the Agreement shall be void and non-binding on Comcast.

Customer, by signing below, agrees and accepts the terms and conditions of this Agreement.

Village of Downers Grove

Comcast Business Communications, LLC

Signature:		Signature:	
Printed Name:		Printed Name:	DocuSigned By: Terrence J. Connell
Title:		Title:	VP Sales and Operations
Date:		Date:	1/12/2012

SECTION 1 - SCOPE OF SERVICE

1.1 Company will provide to Customer the Service at the prices set forth in the attached Schedule A, and to the location(s) set forth in Schedule B, both attached hereto ("Buildings"). The Service is provisioned by utilizing fiber optic cable, associated with electronics and other equipment ("Network"), which transports and distributes digital signals in a standards based Internet Protocol (IP) format for standards based IP applications to Customer's Buildings identified in the attached Schedule B and at the transmission level designated in Schedule A attached hereto. The Network is provisioned into Customer's Building at the point of interconnection between the Network and Customer's provided equipment located at Customer's Building ("Demarcation Point").

1.2 The Service does not include connection to the public switched network, building wire, any Local Area Networks ("LANs"), Customer Premise Equipment ("CPE"), IP addressing capability, firewalls or any other equipment, electronics, or wiring required on the Customer's side of the Demarcation Point.

1.3 Upon the request of Customer, Company will consider providing other services to Customer at terms, conditions, and prices to be mutually agreed upon in writing between the Parties.

SECTION 2 - INSTALLATION OF NETWORK

2.1 Customer, at no cost to Company, shall secure throughout the term of Service any easements, leases or other agreements necessary to allow Company to use existing pathways into and in each Building to the Demarcation Point for the Service.

2.2 Subject to the terms of this Agreement, and at no cost to Company, Customer shall provide adequate environmentally controlled space and electricity required for installation, operation, and maintenance of the Network used to provision the Service within each Building.

2.3 Company and its employees, agents, lessees, officers and its authorized vendors will require free ingress and egress into and out of the Buildings in connection with the provision of Services. Upon reasonable notice from Company, Customer shall assist Company in accessing each Building.

2.4 If the presence of asbestos or other hazardous materials exists or is detected, Customer must have such hazardous materials removed immediately at Customer's expense or notify Company to install the applicable portion of the Network in areas of any such Building not containing such hazardous material. Any additional expense incurred as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer.

2.5 Company shall have no obligation to install, operate, or maintain Customer-provided facilities or equipment.

2.6 Customer shall be responsible for providing maintenance, repair, operation and replacement of all wire, cable facilities on the Customer's side of the Demarcation Point. Any CPE and wiring that Customer uses in connection with the Service shall be compatible with the Network.

2.7 Customer shall use reasonable efforts to maintain its property and Buildings in a manner that preserves the integrity of the Service and shall promptly notify Company of any event that affects such integrity including but not limited to damage to the Network.

2.8 At such time as Company completes installation and connection of the necessary facilities and equipment to provide the Service, Company shall then notify Customer in writing that the Service is available for use and the

date of such notice shall be the "Service Date". The current notice form is called the Billing Information Form ("Billing Form"). Company may update, modify or replace the service notification form from time to time without notice to Customer.

2.9 Any other failure on the part of Customer to be ready to receive Service, or any refusal on the part of Customer to receive Service, shall not relieve Customer of its obligation to pay charges for any Service that would otherwise be available for use.

2.10 Customer-Provided Equipment (CPE). Company shall have no obligation to install, operate, or maintain CPE. Customer alone shall be responsible for providing maintenance, repair, operation and replacement of all inside telephone wiring and equipment and facilities on the Customer's side of the Demarcation Point. All CPE and wiring that Customer uses in connection with the Services must be fully compatible with the Services. Customer shall be responsible for the payment of all charges for troubleshooting, maintenance or repairs attempted or performed by Company's employees or authorized contractors when the difficulty or trouble report results from CPE.

SECTION 3 - OWNERSHIP, IMPAIRMENT, AND REMOVAL OF THE NETWORK

3.1 The Network is and shall remain the property of Company regardless of whether installed between, within or upon the Buildings and whether installed overhead, above, or underground and shall not be considered a fixture or an addition to the land or the Buildings located thereon. Customer agrees that it shall take no action that directly or indirectly impairs Company's title to the Network, or exposes Company to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude the Company from using the Network for services provided to other Company customers.

3.2 For a period of twelve (12) months following Company's discontinuance of Service to the Buildings, Company retains the right to remove the Network including, but not limited to, that portion of the Network that is located in the Buildings. To the extent Company removes such portion of the Network, it shall be responsible for returning the Buildings to their prior condition, reasonable wear and tear excepted.

SECTION 4 - COMPENSATION; PAYMENT

4.1 The Non-Recurring Charges ("Non-Recurring Charges" or "NRC") and Monthly Recurring Charges ("Monthly Recurring Charges" or "MRC") for the Service is set forth in the attached Schedule A and on the first page of the Agreement. Upon installation of Services, Company shall immediately invoice Customer for the NRC and Customer shall pay Company one hundred percent (100%) of the NRC. Unless otherwise stated in this Agreement, Company will invoice Customer in advance on a monthly basis for all Monthly Recurring Charges arising under the Agreement. Payment will be considered timely made to Company if received within thirty (30) days after the invoice date set forth in the invoice. Any charges not paid to Company within such period will be considered past due. In the event the Service Date is not the first day of the billing period, the first Recurring Charge shall also include the pro rated in arrears charges for Services from date of installation to the date of first billing.

4.2 Any payment not made when due will be subject to a late charge of 1.5% per month or the highest rate allowed by law on the unpaid invoice, whichever is lower.

4.3 Except for taxes based on Company's net income, and except to the extent Customer provides a valid tax exemption certificate prior to the delivery of Service, Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes (however designated) levied upon the sale, installation, use or provision of Service. Further, Company reserves the right to invoice Customer for the costs of any fees or payment obligations stemming from an order, rule, or regulation of the FCC, a public

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service commission or a court of competent jurisdiction with respect to one Services, including, without limitation, universal service fund charges, or as otherwise needed to recover amounts that Company is required by government or quasi-governmental authorities to collect from or to pay to others in support of statutory or regulatory programs, including, without limitation, franchise fees and right-of-way fees. It will be the responsibility of Customer to pay any such taxes and fees that subsequently become applicable retroactively.

4.4 In the event that any newly adopted law, rule, regulation, or judgment increases Company's costs of providing Services, Customer shall pay Company's additional costs of providing Services under the new law, rule, regulation or judgment.

SECTION 5 - TERM

Unless sooner terminated as provided herein, the term of this Agreement shall be for Thirty-Six (36) months from the Service Date ("Term"). In the case of multiple Service Dates, the Term shall be Thirty-Six (36) months from the last Service Date. Upon the expiration of the Term, this Agreement shall automatically renew for successive periods of one (1) year each ("Renewal Term(s)"), unless prior notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Effective at any time after the end of the initial Service Term and from time to time therein, Company may modify the charges for the Services to reflect then-current prevailing pricing subject to thirty (30) days prior notice to Customer. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing for the remainder of the Renewal Term.

SECTION 6 - TERMINATION WITHOUT FAULT; DEFAULT

6.1 Notwithstanding any other term or provision in this Agreement, Customer shall have the right, in its sole discretion, to terminate this Agreement at any time during the Term, or any Renewal Term, upon (i) sixty (60) days prior written notice to Company and (ii) the payment of 100% of the remaining Recurring Charges ("Termination Charges") payable to Company within ten (10) days following termination of the Agreement ("Termination Charges").

6.2 (a) Company may, in its sole discretion, immediately terminate this Agreement in the event that it is unable to provide Service due to any law, rule, regulation, Force Majeure event, or judgment of any court or government agency. If Company terminates the agreement under this subsection 6.2(a), Customer shall have no obligation to pay any remaining Monthly Recurring Charges as a result of Termination by the Company, with the exception of any past due amounts.

(b) Any breach of Article 9A shall be deemed a material breach of this Agreement. In the event of such material breach, Company shall have the right to restrict, suspend, or terminate immediately any or all Service, without liability on the part of Company, and then to notify Customer of the action that Company has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement. In the event Company terminates service under this subsection 6.2(b), Customer shall be responsible for the payment of all past due amounts and Termination Charges in addition to any other remedies as identified in section 6.4.

6.3 In the event of default, either Party may terminate this Agreement. A "default" exists under this Agreement upon the following events:

(i) either Party's failure to meet or perform any material term, provision, covenant, agreement, or obligation contained in this Agreement; provided that the non-defaulting Party so advises the defaulting Party in writing of the event of default and the defaulting Party does not remedy the default within thirty (30) days after written notice thereof; or

(ii) either Party's insolvency or initiation of bankruptcy or receivership proceedings by or against the Party.

(iii) Customer is in breach of a payment obligation and fails to make payment in full within ten (10) days after receipt of written notice of default.

6.4 The non-defaulting Party shall be entitled to all available legal and equitable remedies for such breach.

6.5 In addition to the remedies set forth in Section 6.4 above; Company shall be entitled to Termination Charges for any Customer Default.

SECTION 7 - SERVICE RESPONSE TIMES

7.1 Maintenance Service consists of the repair or replacement, at Company's option, of any portion of the Network that is malfunctioning. Company will maintain the Network twenty-four (24) hours a day, seven (7) days per week, every day of the year.

7.2 In the event that Company, in responding to a Customer-initiated service call, determines that the reason for such service call is due to Customer-provided equipment or Customer's actions or omissions, acts or omissions of third parties with whom Customer has any type of relationship, Customer shall compensate Company for Company's costs of such service call at the rate of \$50.00 per half hour and \$150.00 per truck roll charge.

SECTION 8 - LIMITATIONS ON WARRANTIES AND LIABILITY

8.1 COMPANY WILL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, COMPANY'S AGGREGATE LIABILITY TO CUSTOMER FOR ANY DAMAGES OF ANY KIND UNDER THIS AGREEMENT WILL NOT EXCEED, IN AMOUNT, A SUM EQUIVALENT TO THE APPLICABLE OUT-OF-SERVICE CREDIT.

8.2 THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.3 Company's liability for mistakes, errors, omissions, interruptions, delays, outages, or defects in transmission or switching of any Service (individually or collectively, "Liability"), excluding any Liability caused by force majeure events or Customer actions, omission or equipment, shall be limited solely to 1/30th of the Monthly Recurring Charge, for the affected portion of the Service, for one or more Liabilities of at least two (2) hours in duration in any 24-hour period that is not coincident with any other Liability, ("Credit"), provided that the Liability is reported by Customer during the duration of the Liability.

8.4 Company shall not be liable for any act or omission of any other company or companies furnishing a portion of the Service including, but not limited to, the inability of a supplier to provide equipment in a timely manner for Network, or for damages associated with services, facilities, or equipment which it does not furnish, including, but not limited to, damages which result from the operation of Customer's system, equipment or facilities. In no event shall Company, its affiliates, its/their employees agents, contractors, merchants, or licensors be liable for any loss, damage or claim arising out of or related to: (1) stored, transmitted, or recorded data, files, or software. (i.e., Customer is advised to back up all data, files and software prior to the installation of service and at regular intervals thereafter); (2) interoperability, interaction or interconnection of the Service provided under this Agreement with applications, equipment, services or

8.5 Neither Customer nor its agents or independent contractors shall offer third parties warranties or representations for the Service which would obligate or otherwise bind Company beyond any warranty or representation expressly set forth in this Agreement.

8.6 Customer is prohibited from reselling Company-provided Services in any way. Customer, its employees, agents and independent contractors shall not use the Network to provide any product or Service that directly or indirectly competes with any product or Services provided by the Company (Non-Compete)

SECTION 9 - INDEMNIFICATION

9.1 Subject to Section 8, each Party ("Indemnifying Party") will indemnify and hold harmless the other Party ("Indemnified Party"), its affiliates, officers, directors, employees, stockholders, partners, independent contractors and agents from and against any and all joint or several costs, damages, losses, liabilities, expenses, judgments, fines, settlements and any other amount of any nature, including reasonable fees and disbursements of attorneys, accountants, and experts (collectively, "Damages"), arising from any and all claims, demands, actions, suits, or proceedings whether civil, criminal, administrative, or investigative (collectively, "Claims") relating to:

(i) Any Claim of any third party resulting from the gross negligence or willful act or omission of Indemnifying Party arising out of or related to this Agreement, the obligations hereunder, and uses of Services; and

(ii) Any violation of this Agreement by the Indemnifying Party or any violation of any law, rule, regulation, or order of any governmental authority having jurisdiction over any aspect hereof, or in violation of any patent, right, license, agreement, or certificate relating to the subject matter hereof.

9.2 The Indemnifying Party agrees to defend the Indemnified Party for any loss, injury, liability, claim or demand ("Actions") that is the subject of this Section 9. The Indemnified Party agrees to notify the Indemnifying Party promptly, in writing, of any Actions, threatened or actual, and to cooperate in every reasonable way to facilitate the defense or settlement of such Actions. The Indemnifying Party shall assume the defense of any Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ its own counsel in any such case, and shall pay such counsel's fees and expenses. The Indemnifying Party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 9A - USE POLICIES

9A.1 Customer agrees to ensure that all uses of the Services installed at its premises ("use") are legal and appropriate. Specifically, Customer agrees to ensure that all uses by Customer or by any other person ("user"), whether authorized by Customer or not, comply with all applicable laws, regulations, and written and electronic instructions for use. Company reserves the right to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to Customer or users, if Company (i) determines that such use or information does not conform with the requirements set forth in this Agreement, (ii) determines that such use or information interferes with Company's ability to provide the Services to Customer or others, or (iii) reasonably believes that such use or information may violate any laws, regulations, or written and electronic instructions for use. Furthermore, to the extent Customer purchases Internet bandwidth services, such Services shall be subject to Company's Acceptable Use Policies ("AUP") that may limit use. The AUP and other policies concerning the Services are posted <http://www.comcast.com/business> or on another web site about which

Customer has been notified, and are incorporated to this Agreement by reference. Company may update the use policies from time to time, and such updates shall be deemed effective seven (7) days after the update is posted online, with or without actual notice to Customer. Accordingly, Customer should check the above web addresses (or the applicable successor URLs) on a regular basis to ensure that its activities conform to the most current version of the use policies. Company's action or inaction in enforcing acceptable use shall not constitute review or approval of Customer's or any other users' use or information.

9A.2 Violation. Any breach of this Article 9A shall be deemed a material breach of this Agreement. In the event of such material breach, Company shall have the right to restrict, suspend, or terminate immediately any or all Service, without liability on the part of Company, and then to notify Customer of the action that Company has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement.

SECTION 10 - INSURANCE

10.1 Company shall maintain during the Initial Term or any Renewal Term commercial general liability insurance that covers its liability and obligations hereunder including premises operations, broad-form property damage, personal injury hazards and contractual liability.

10.2 Customer shall maintain during the Initial Term or any Renewal Term commercial general liability insurance that covers its liability and obligations hereunder including premises operations, broad-form property damage (including, if appropriate, flood damage), personal injury hazards and contractual liability.

10.3 The liability limits under these policies shall be one million (\$1,000,000) dollars per occurrence, with a combined single limit for bodily injury and property damage liability.

SECTION 11 - ASSIGNMENT

11.1 Neither Party shall assign any right, obligation or duty, in whole or in part, or of any other interest hereunder, without the prior written consent of the other Party, which shall not be unreasonably withheld. The foregoing notwithstanding, Company may assign this Agreement to any affiliate, related entity, or successor in interest without Customer's consent. In addition, Company may partially assign its rights and obligations hereunder to any party which acquires from Company all or substantially all of the assets of cable franchise(s) in which the Service is deployed to Customer.

11.2 All obligations and duties of either Party under this Agreement shall be binding on all successors in interest and assigns of such Party.

SECTION 12 - FORCE MAJEURE

Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, act of terrorism, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

SECTION 13 - SEVERABILITY

In the event that any one or more of the provisions in this Agreement shall for any reason be held invalid, unenforceable, or void in any respect under the laws of the jurisdiction governing the entire Agreement, such provision(s) shall be construed so as to render it enforceable and effective to the maximum extent possible in order to effectuate the intention of this Agreement; and the validity, legality, and enforceability of the remaining provisions hereof shall not be affected or impaired.

SECTION 14 - THIRD-PARTY BENEFICIARIES

No provision in this Agreement is intended, nor shall any be interpreted, to provide any person not a Party to this Agreement with any remedy, claim, liability, reimbursement, cause of action or create any other third party beneficiary rights against Company.

SECTION 15 - INDEPENDENT CONTRACTORS

15.1 The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

15.2 The requirements of this Article shall survive the expiration, termination, or cancellation of this Agreement to the greatest extent permitted by law.

SECTION 16 - NONDISCLOSURE

16.1 Unless prior written consent is obtained from a Party hereto, the other Party will keep in strictest confidence all information identified by the first Party as confidential, or which, from the circumstances, in good faith and in good conscience, should be treated as confidential; provided that (a) the owner thereof has taken reasonable measures to keep such information secret; and (b) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by the public. Such information includes but is not limited to all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or not stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing. A Party shall be excused from these nondisclosure provisions if the information has been, or is subsequently, made public by the disclosing Party, is independently developed by the other Party, if the disclosing Party gives its express, prior written consent to the public disclosure of the information, or if the disclosure is required by any law or governmental or quasi-governmental rule or regulation.

16.2 Customer shall not disclose to third parties the rates, terms, or conditions of this Agreement or any proprietary or confidential information of the Company, except as necessary for the operation of Customer's business and under non-disclosure agreement between Customer and third parties, or as required by law.

SECTION 16A - CUSTOMER PRIVACY POLICIES

16A.1 In addition to the provisions of Article 16, the privacy policy below applies to Company's handling of Customer confidential information. In the event of a conflict between the provisions of Article 16 and any provision of the privacy policy below, the applicable provision of the privacy policy shall prevail in the resolution of the conflict. A copy of Company's privacy policy is available at <http://www.comcast.com/customerprivacy/>. Company may update this policy from time to time, and such updates shall be deemed effective upon posting.

16A.2 Privacy Note Regarding Information Provided to Third Parties: Company is not responsible for any information provided by Customer to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy policies. Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

SECTION 17 – NOTICES

17.1 Any notices or other communications contemplated or required under

this Agreement, in order to be valid, shall be in writing and shall be given via personal delivery, or overnight courier, or via U.S. Certified Mail, Return Receipt Requested, at the following addresses:

To Customer:

Attn: Bill Herman
Village of Downers Grove
801 Burlington

Downers Grove , IL 60515

With an additional customer copy to:

To Company;

Attn.: VP – Business Services
Comcast Business Communications, LLC.
One Comcast Center
Philadelphia, PA 19103

With a copy to:

Attn.: Cable Law Department
Comcast Cable Communications, LLC.
One Comcast Center
Philadelphia, PA 19103

SECTION 18 - HEADINGS AND TITLES

The headings or titles of any provisions of this Agreement are for convenience or reference only and are not to be considered in construing this Agreement.

SECTION 19 - GOVERNING LAW AND COURTS

The domestic law of the state in which the Services are provided shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law.

SECTION 20 - COMPLIANCE WITH LAWS

Each of the Parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

SECTION 21 - AMENDMENTS; NO WAIVER

21.1 This Agreement may be amended only by written agreement signed by authorized representatives of both Parties.

21.2 No waiver of any provisions of this Agreement or to any default under this Agreement shall be effective unless the same shall be in writing and signed by or on behalf of the Party against whom such waiver is claimed.

21.3 No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement shall be construed as a waiver of such term, right or condition.

21.4 Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

SECTION 22 - SURVIVAL

Provisions contained in this Agreement that by their sense and context are intended to survive the performance, termination or cancellation of this Agreement hereof by any Party hereto shall so survive.

SECTION 23 - FULLY INTEGRATED

This writing constitutes the entire agreement between the Parties as to the subject matter hereof and supersedes and merges all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the Agreement.

SECTION 24 - INTERPRETATION OF AGREEMENT

This Agreement is a negotiated document. In the event that this Agreement requires interpretation, such interpretation shall not use any rule of construction that a document is to be construed more strictly against the Party who prepared the document.

SECTION 25 - RIGHT TO ENTER INTO CONTRACTS

Nothing herein shall be construed as preventing either Party hereto from entering into similar contractual arrangements with other parties, unless such contracts would conflict with the performance of this Agreement.

SECTION 26 - REMEDIES CUMULATIVE

All rights of termination, or other remedies set forth in this Agreement are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled at law or equity in case of any breach or threatened breach by the other Party of any provision of this Agreement. Use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing any provision of this Agreement; provided, however, that Party shall not be entitled to retain the benefit of inconsistent remedies.

SECTION 27 - COUNTERPARTS

This Agreement may be executed simultaneously in two or more counterparts, each counterpart shall be deemed an original, and all counterparts individually or together shall constitute one and the same instrument.

Amendment No. IL-12031-011112-01/A1

FIRST AMENDMENT
To
Network Services Agreement No. IL-12031-011112-01

This First Amendment (“Amendment”) is concurrently entered into on January 11, 2012 (“Effective Date”) in conjunction with Network Services Agreement No. IL-12031-011112-01 (“Agreement”) by and between Comcast Business Communications, LLC (“Company”) and Village of Downers Grove (“Customer”), individually referred to herein as “Party” and jointly referred to as “Parties”. In the event of conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall take precedence in the interpretation of the explicit matter in question. Unless otherwise set forth herein, all capitalized terms set forth herein shall have the same meaning as set forth in the Agreement.

Whereas, the Parties desire to amend the Agreement by this writing to reflect the amended or additional terms and conditions to which the Parties have agreed to;

Now, therefore, in consideration of the mutual covenants, promises, and consideration set forth in this Amendment, the Parties agree as follows:

1. Article 4.1 of the General Terms and Conditions is hereby modified to read as follows:

“The Non-Recurring Charges (“Non-Recurring Charges” or “NRC”) and Monthly Recurring Charges (“Monthly Recurring Charges” or “MRC”) for the Service is set forth in the attached Schedule A and on the first page of the Agreement. Upon installation of Services, Company shall immediately invoice Customer for the NRC and Customer shall pay Company one hundred percent (100%) of the NRC. Unless otherwise stated in this Agreement, Company will invoice Customer in advance on a monthly basis for all Monthly Recurring Charges arising under the Agreement. Payment will be considered timely made to Company if received within thirty (30) days after the invoice date set forth in the invoice. Any charges not paid to Company within such period will be considered past due. In the event the Service Date is not the first day of the billing period, the first Recurring Charge shall also include the *prorated* in arrears charges for Services from date of installation to the date of first billing, however, it is understood that the Customer will comply with the Local Government Prompt Payment Act, 50 ILCS 505.”

2. Article 4.2 of the General Terms and Conditions is hereby modified to read as follows:

“Any payment not made when due will be subject to a late charge of 1.5% per month or the highest rate allowed by law on the unpaid invoice, whichever is lower as provided by the Local Government Prompt Payment Act, 50 ILCS 505.”

3. Section 5 of the General Terms and Conditions is hereby modified to read as follows:

“Unless sooner terminated as provided herein, the term of this Agreement shall be for thirty-six (36) months from the Service Date (“Term”). In the case of multiple Service Dates, the Term shall be thirty-six (36) months from the last Service Date. Upon the expiration of the Term, this Agreement shall automatically renew for successive periods of one (1) month each (“Renewal Term(s)”), unless prior notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Upon prior written request by the Customer to the Company, this Agreement may be renewed for an additional thirty-six month (36) Term, and, upon then current rates, or upon rates and terms acceptable in writing by both Parties. Effective at any time after the end of the initial Service Term and from time to time therein, Company may modify the charges for the Services to reflect then-current prevailing pricing subject to thirty (30) days prior notice to Customer. Customer will have thirty (30) days from receipt of such notice to

Amendment No. IL-12031-011112-01/A1

cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing for the remainder of the Renewal Term.”

Section 14 of the General Terms and Conditions is hereby modified to read as follows:

“No provision in this Agreement is intended, nor shall any be interpreted, to provide any person not a Party to this Agreement with any remedy, claim, liability, reimbursement, cause of action or create any other third party beneficiary rights against either Party.”

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the day and year written below and the persons signing covenant and warrant that they are duly authorized to sign for and on behalf of the respective Parties. Except as otherwise modified by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

Village of Downer Grove

Comcast Business Communications, LLC

Signature:		Signature:	<i>Terrence J. Connell</i>
Printed Name:		Printed Name:	Terrence J. Connell
Title:		Title:	VP Sales and operations
Date:		Date:	1/12/2012

**SCHEDULE A
BUILDINGS, SERVICES AND PRICING**

Date: **11/27/2011**

** Legacy Migration **

Short Description of Service:

Existing customer w/50 Mb EPL 5 Mb EDI would like 1000 Mb EPL w/ 100 Mb EDI (Designed MetroE) circuit. This will be a hot cut and old circuit will be disconnected once the new circuit i

Term: **36 MONTHS**

DATA NETWORK SERVICES - PAGE 1

Line	Service Element	Description	Location A*	Location Z*	Tax Jurisdiction	Qty	Unit Pricing		Extended Pricing	
							MRC	NRC	MRC	NRC
001	Ethernet Network Interface - Gig E	Port	Village of Downers Grov		Interstate	1	\$331.54	\$0.00	\$331.54	\$0.00
002	EPL - Basic Network Bandwidth	1000 Mbps	Village of Downers Grov	Metro E Village of Dow	Interstate	1	\$948.72	\$0.00	\$948.72	\$0.00
003	Ethernet Network Interface - Gig E	Port	Metro E Village of Down		Interstate	1	\$331.54	\$0.00	\$331.54	\$0.00
004	EDI - Network Interface	100 Mbps	Village of Downers Grov		Interstate	1	\$581.47	\$0.00	\$581.47	\$0.00
005	EDI - Bandwidth	100 Mbps	Village of Downers Grov		Interstate	1	\$1,101.73	\$0.00	\$1,101.73	\$0.00
006	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
007	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
008	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
009	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
010	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
011	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
012	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
013	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
014	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
015	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
016	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
017	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
018	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
019	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
020	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
021	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
022	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
023	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
024	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
025	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
026	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
027	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
028	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
029	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
030	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
031	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
032	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
033	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
034	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00
035	-	-	-	-	-	1	\$0.00	\$0.00	\$0.00	\$0.00

* Building Location Detail Attached

COMCAST ACCOUNT REPRESENTATIVE: **Maria Azada**
COMCAST SALES ENGINEER: **Scott Hawkins**

PAGE 1 DATA NETWORK SERVICES SUBTOTAL:	\$3,295.00	\$0.00
PAGE 2 DATA NETWORK SERVICES SUBTOTAL:	\$0.00	\$0.00
PAGE 3 DATA NETWORK SERVICES SUBTOTAL:	\$0.00	\$0.00
TOTAL CUSTOM INSTALLATION CHARGES:	\$0.00	\$0.00

CUSTOMER NAME: **Village of Downers Grove**
NAME:
TITLE:
DATE:

TOTAL MONTHLY SERVICE CHARGES:	\$3,295.00
MONTHLY CUSTOM INSTALLATION CHARGES:	\$0.00
TOTAL MONTHLY CHARGES:	\$3,295.00
TOTAL NONRECURRING SERVICE CHARGES:	\$0.00
NONRECURRING CUSTOM INSTALLATION CHARGES:	\$0.00
TOTAL NONRECURRING CHARGES:	\$0.00

Note: The prices included on this sales order do not include any local, state or federal fees, charges, or taxes that may apply. Please refer to the Comcast Master Service Agreement for specific detail regarding such charges.

SCHEDULE B - BUILDING LOCATION DETAIL

CUSTOMER AUTHORIZATION

PRINT NAME _____

 DATE _____

BILLING LOCATION INFORMATION

Main Account / Billing Name: Village of Downers Grove
 County: DuPage
 Street Address: 801 Burlington
 City: Downers Grove
 State: IL Zip: 60515
 Tax Exempt?: Yes
 Billing Interval: Monthly
 Special Instructions: _____

Billing Contact Name: Bill Herman
 Billing Contact email: Bherman@downers.us
 Billing Contact phone: 630-434-5567
 Billing Contact fax: _____
 Billing Contact pager: _____
 Network Solutions GL: _____
 Cable System GL: _____

SERVICE LOCATIONS

Site Name Village Hall
 County: DuPage
 Street Address: 801 Burlington Avenue
 Floor: 1st
 City: Downers Grove
 State: IL
 Zip Code: 60515

Technical / Local Contact: Bill Herman
 Local Contact email: Bherman@downers.us
 Local Contact phone: 630-434-5567
 Local Contact fax: _____
 Local Contact mobile / pager: _____

Site Name Public Works
 County: DuPage
 Street Address: 5101 Walnut
 Floor: 1st
 City: Downers Grove
 State: IL
 Zip Code: 60515

Technical / Local Contact: Bill Herman
 Local Contact email: Bherman@downers.us
 Local Contact phone: 630-434-5567
 Local Contact fax: _____
 Local Contact mobile / pager: _____

Site Name _____
 County: _____
 Street Address: _____
 Floor: _____
 City: _____
 State: _____
 Zip Code: _____

Technical / Local Contact: _____
 Local Contact email: _____
 Local Contact phone: _____
 Local Contact fax: _____
 Local Contact mobile / pager: _____

Site Name _____
 County: _____
 Street Address: _____
 Floor: _____
 City: _____
 State: _____
 Zip Code: _____

Technical / Local Contact: _____
 Local Contact email: _____
 Local Contact phone: _____
 Local Contact fax: _____
 Local Contact mobile / pager: _____

Site Name Elmhurst HE
 County: _____
 Street Address: _____
 Floor: _____
 City: _____
 State: _____
 Zip Code: _____

Technical / Local Contact: _____
 Local Contact email: _____
 Local Contact phone: _____
 Local Contact fax: _____
 Local Contact mobile / pager: _____

Site Name _____
 County: _____
 Street Address: _____
 Floor: _____
 City: _____
 State: _____
 Zip Code: _____

Technical / Local Contact: _____
 Local Contact email: _____
 Local Contact phone: _____
 Local Contact fax: _____
 Local Contact mobile / pager: _____